

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

FEDERAL TRADE COMMISSION,

Plaintiff,

V.

AMAZON.COM, INC.,

Defendant.

Case No. 2:14-cv-01038-JCC

**DECLARATION OF JASON M.
ADLER IN SUPPORT OF MOTION
TO COMPEL**

I, Jason M. Adler, declare as follows:

1. I am an attorney employed by the Federal Trade Commission (“FTC”) and counsel of record for the plaintiff FTC in this matter. I submit this declaration in support of the FTC’s motion to compel discovery from defendant Amazon.com, Inc. (“Amazon”).

2. Attached to the FTC's motion to compel as Exhibit A is a true and correct copy of Plaintiff's Second Set of Requests for Production of Documents to Amazon.

3. Attached to the FTC's motion to compel as Exhibit B is a true and correct copy of Plaintiff's Second Set of Interrogatories to Amazon.

4. Attached to the FTC's motion to compel as Exhibit C is a true and correct copy of Amazon's Responses and Objections to Plaintiff's Second Set of Requests for Production of Documents.

5. Attached to the FTC's motion to compel as Exhibit D is a true and correct copy of Amazon's Responses and Objections to Plaintiff's Second Set of Interrogatories.

6. Attached to the FTC's motion to compel as Exhibit E is a true and correct copy of an email exchange between the FTC and Amazon, as redacted by Amazon, about a list of apps Amazon proposed the FTC use to limit the scope of certain discovery requests.

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(202) 326-3231

1 7. Attached to the FTC's motion to compel as Exhibit F is a true and correct copy of
2 an email exchange between the FTC and Amazon, as redacted by Amazon, about discovery,
3 including Amazon's responses and objections to the FTC's second set of discovery requests. The
4 email exchange begins October 6, 2014 and ends January 21, 2015.

5 8. Attached to the FTC's motion to compel as Exhibit G is a true and correct copy of
6 an email exchange between the FTC and Amazon, as redacted by Amazon, about discovery,
7 including Amazon's responses and objections to the FTC's second set of discovery requests. The
8 email exchange begins January 27, 2015 and ends April 20, 2015.

9 9. Attached to the FTC's motion to compel as Exhibit H is a true and correct copy of
10 a February 27, 2015 letter from Amazon to the FTC responding to the February 24, 2015 email I
11 sent about Amazon's discovery responses and objections.

12 10. Attached to the FTC's motion to compel as Exhibit I is a true and correct copy of
13 a document Amazon produced to the FTC, Bates-stamped Amz_FTC_0042112 through
14 Amz_FTC_0042120. Amazon marked this document as CONFIDENTIAL.

15 11. Attached to the FTC's motion to compel as Exhibit J is a June 15, 2015 website
16 capture of <https://www.amazon.com/gp/help/customer/display.html?nodeId=468496>, titled
17 "Amazon.com Privacy Notice."

18 12. Attached to the FTC's motion to compel as Exhibit K is the ESI Agreement
19 between the parties in this case. (Dkt. 13.)

20 13. Counsel for the parties have discussed Amazon's objections and production in
21 response to the FTC's discovery requests in this case on numerous occasions, including
22 telephonically on October 10, 2014, October 22, 2014, November 20, 2014, December 15, 2014,
23 January 12, 2015, February 3, 2015, February 20, 2015, and June 2, 2015.

24 14. Counsel for the parties (including Jason Adler for the FTC and Danielle Foley for
25 Amazon) met and conferred telephonically about the disputes at issue in the FTC's motion on
26 January 12, 2015, February 3, 2015, February 20, 2015, and June 2, 2015. During the parties'

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1 June 2, 2015 call, counsel for Amazon revealed for the first time that it would not produce any
2 data about ultimately unsuccessful in-app charge attempts. Counsel claimed such data was too
3 burdensome to obtain.

4 15. The parties also have exchanged written correspondence about the discovery
5 disputes at issue in the FTC's motion. Exhibits F, G, and H to the FTC's motion to compel
6 contain copies of the parties' written exchanges referenced in the FTC's motion about the
7 underlying disputes.

8 16. After a good faith effort to do so, the FTC has been unable to resolve the disputes
9 detailed in its motion.

10
11 I declare under penalty of perjury that the foregoing is true and correct.

12 Executed this 18th day of June 2015.

13 *s/ Jason M. Adler*
14 JASON M. ADLER
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